

Andrew K. Glenn
Agustina G. Berro
Richard C. Ramirez
Naznen Rahman
GLENN AGRE BERGMAN & FUENTES LLP
1185 Avenue of the Americas
22nd Floor
New York, New York 10036
Telephone: (212) 970-1600

*Counsel to Reorganized Debtor
Ninety-Five Madison Company, L.P.*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	Chapter 11
In re:)	
)	Case No. 21-10529 (DSJ)
NINETY-FIVE MADISON COMPANY, L.P.,)	
)	
Reorganized Debtor.)	
)	

**REORGANIZED DEBTOR NINETY-FIVE MADISON COMPANY L.P.'S
STATEMENT OF ISSUES AND DESIGNATION OF THE RECORD ON APPEAL**

Reorganized Debtor and Appellant Ninety-Five Madison Company, L.P. (“NFMC”), by and through its undersigned counsel, hereby provides, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Bankruptcy Rules”), the following statement of issues, designation of items to be included in the record on appeal, and certification regarding transcripts (this “Statement”) with respect to NFMC’s appeal from the Bankruptcy Court’s *Decision On Application of Branton Realty Services LLC for Compensation and Reimbursement of Expenses* [Docket No. 420] and associated *Amended Order Granting Final Fee Application of Branton Realty Services LLC and Related Relief* [Docket No. 434], as set forth in NFMC’s *Notice of Appeal* [Docket No. 438].

STATEMENT OF ISSUES ON APPEAL

1. Did the Bankruptcy Court err in holding that NFMC breached its contractual obligations, including its referral obligations, under the Listing Agreement for Sale, and that such breach entitled Branton Realty Services LLC (“Branton”) to contractual damages?
2. Did the Bankruptcy Court err in concluding that, but for NFMC’s breach, Branton would have procured a tour with the ultimate buyer of the building located at 95 Madison Avenue, New York New, York 10016 (the “Property”), notwithstanding unrebutted testimony that Two Bins Capital LLC (“Two Bins”) refused to work with Branton in any capacity and/or tour the Property during Branton’s term?
3. Did the Bankruptcy Court err in concluding that the Listing Agreement for Sale constituted an “exclusive right to sell” contract under New York law?
4. Did NFMC satisfy its referral obligations under the Listing Agreement for Sale by providing Branton with the contact information for Two Bins on multiple occasions?

DESIGNATION OF RECORD ON APPEAL

NFMC respectfully designates the following items for inclusion in the record on appeal pursuant to Bankruptcy Rule 8009(a) and Local Bankruptcy Rule 8009-1(a). Each designated item shall also include *all filed exhibits attached to such item*. NFMC also designates this *Statement of Issues and Designation of Record on Appeal* for inclusion in the record on appeal.

Chapter 11 Docket (Case No. 21-10529 (DSJ))

Docket No.	Date Filed	Description
1	3/22/2021	Chapter 11 voluntary petition
10	4/1/2021	Declaration Under Penalty of Perjury for Non-Individual Debtors (Official Form 202) (including all exhibits attached thereto)
13	4/6/2021	Declaration of Rita A. Sklar Pursuant to Local Bankruptcy Rule 1007-2
176	8/19/2022	Application to Employ Branton Realty Services LLC as Real Estate Broker & Sales Agent
181	8/31/2022	Order Authorizing the Retention and Employment of Branton Realty Services LLC as Real Estate Broker & Sales Agent to the Debtor, Nunc Pro Tunc to August 17, 2022
194	12/8/2022	Declaration of Andrew K. Glenn in Connection with the Motion of Ninety-Five Madison Company, L.P. for an Order (I) Authorizing Debtor to Obtain Postpetition Debtor-In-Possession Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief (including all exhibits attached thereto)
234	5/1/2023	Supplemental Application of Debtor Ninety-Five Madison Company, L.P. for an Order Amending the Order Pursuant to 11 U.S.C §§ 327(a) and 328(a) Authorizing the Retention and Employment of Branton Realty Services LLC
242	5/22/2023	Transcript of Hearing Held on 05/17/23
243	5/25/2023	Order Amending the Order Authorizing the Retention and Employment of Branton Realty Services LLC as Real Estate Broker and Sales Agent
274	9/27/2023	Combined Chapter 11 Plan and Disclosure Statement of Debtor Ninety-Five Madison Company, L.P.

Docket No.	Date Filed	Description
294	12/15/2023	Notice of Amended Combined Chapter 11 Plan of Reorganization and Disclosure Statement for Debtor Ninety-Five Madison Company, L.P.
300	12/21/2023	Order Approving and Confirming Debtor's Amended Combined Chapter 11 Plan of Reorganization.
323	2/20/2024	Notice of Occurrence of Effective Date to Chapter 11 Plan
325	3/1/2024	Debtors Motion Pursuant to Sections 105, 363, 365 and 1146 of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure for Entry of an Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests
326	3/1/2024	Declaration of Michael Sklar in Support of Debtors Motion Pursuant to Sections 105, 363, 365 and 1146 of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure for Entry of an Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief
336	3/22/2024	Motion to Sell Property Free and Clear of Liens Under Section 363(f) - <i>Redacted</i>
343	4/9/2024	Objection to Motion (Limited) re: Debtor Ninety-Five Madison Company, L.P.'s Motion Pursuant to Sections 105, 363, 365 and 1146 of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure
347	4/15/2024	Debtors Omnibus Reply in Support of the Motion Pursuant to Sections 105, 363, 365 And 1146 of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure for Entry of an Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief
357	4/24/2024	Transcript of Hearing Held on 04/18/2024

Docket No.	Date Filed	Description
358	5/2/2024	Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief.
361	6/3/2025	Amended and Restated Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief.
362	6/4/2024	Final Application for Final Professional Compensation for Branton Realty Services LLC
363	6/5/2025	Second Amended and Restated Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief.
365	6/25/2024	Weinstein Estate's Objection to Application of Branton Realty Services LLC
390	12/17/2024	Branton Realty Services LLCs Pre-Hearing Memorandum
391	12/17/2024	Declaration of Jordan Reisch in Support of Branton Realty Services LLCs Pre-Hearing Memorandum
392	1/8/2025	Reorganized Debtor Ninety-Five Madison Company, L.P.s Memorandum in Opposition to the Final Fee Application of Branton Realty Services LLC
397	1/14/2025	Branton Realty Services LLCs Reply Brief
398	1/14/2025	Declaration of Warren M. Heller
399	1/15/2025	Declaration of Michael Sklar
400	1/15/2025	Declaration of Emanuel Westfried
401	1/16/2025	Declaration of Warren M. Heller (corrected)
406	1/25/2025	Notice of Filing of Hearing Demonstrative Utilized at January 24, 2025 Hearing
408	1/28/2025	Transcript of Hearing Held on 1/22/2025
412	2/11/2025	Transcript of Hearing Held on 1/23/2025
415	2/13/2025	Transcript of Hearing Held on 1/24/2025

Docket No.	Date Filed	Description
420	3/27/2025	Decision on Application of Branton Realty Services LLC for Compensation and Reimbursement of Expenses
421	4/2/2025	Declaration of Jordan Reisch
433	5/8/2025	Order Granting Final Fee Application of Branton Realty Services LLC and Related Relief
434	5/8/2025	Amended Order Granting Final Fee Application of Branton Realty Services LLC and Related Relief
438	5/22/2025	Notice of Appeal of Decision on Fee Application of Branton Realty Services LLC

Other Items¹

Exhibit No.	Description
1	NFMC's Trial Exhibit List (including all exhibits attached thereto)
2	Branton's Trial Exhibit List (including all exhibits attached thereto)

STATEMENT REGARDING TRANSCRIPTS

Pursuant to Bankruptcy Rule 8009(b)(1), NFMC hereby certifies that it is not ordering any transcripts. All relevant transcripts have been prepared, are filed on the Chapter 11 docket, and are designated in the foregoing designation of the record.

RESERVATION OF RIGHTS

NFMC expressly reserves the right to (i) withdraw, supplement, amend or modify this Statement and (ii) move to strike any items included by the Appellee in a designation of additional items. This filing is made expressly subject to, and without waiver of any and all rights, remedies, challenges, and objections.

¹ All other designations not filed on the Chapter 11 docket are attached hereto as exhibits to this Statement.

Dated: June 11, 2025
New York, New York

By: /s/ Andrew K. Glenn

Andrew K. Glenn

Agustina G. Berro

Richard C. Ramirez

Naznen Rahman

GLENN AGRE BERGMAN & FUENTES LLP

1185 Avenue of the Americas

22nd Floor

New York, New York 10036

Telephone: (212) 970-1600

E-mail: aglenn@glennagre.com

aberro@glennagre.com

rramirez@glennagre.com

nrahman@glennagre.com

Counsel to Reorganized Debtor

Ninety-Five Madison Company, L.P.